



Legislative Research Council

MINUTES

Highway Needs and Financing Committee

Senator Mike Vehle, Chair
Representative Mary Duvall, Vice Chair

Third Meeting
2014 Interim
November 6 and 7, 2014

Room 413, State Capitol
Pierre, South Dakota

The third meeting of the Highway Needs and Financing Study Committee was called to order by **Senator Mike Vehle, Committee Chair**, at 11:05 a.m. in room 413 of the State Capitol in Pierre.

A quorum was determined with the following members answering the roll call: Senators Bob Ewing, David Omdahl, Larry Tidemann, Mike Vehle, Chuck Welke, and Jim White; Representatives David Anderson, Gary Cammack, Mary Duvall, Scott Parsley, Jim Peterson, Jim Schaefer, Mike Verchio, and Dick Werner. Member excused on Thursday: Senator Jean Hunhoff.

Staff members present were Fred Baatz, Principal Research Analyst; Amanda Jacobs, Research Analyst; Stephanie Gruba, Fiscal Analyst; David Ortbahn, Chief Analyst for Research; and Traci Thompson, Legislative Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC) and some documents can be found on the LRC website at <http://legis.sd.gov/Interim/CommitteeDocuments.aspx?Session=2014>.

Approval of Minutes

REPRESENTATIVE CAMMACK MOVED, SECONDED BY SENATOR TIDEMANN, TO APPROVE THE MINUTES OF AUGUST 26 and 27, 2014. The motion prevailed unanimously on a voice vote.

Summary Report of the Highway Needs and Financing Committee

Chair Mike Vehle began the meeting by thanking the LRC staff for their hard work and continued by asking if there was anyone who had gotten to the meeting by any means other than a road. He stressed the importance of coming together to find solutions and welcomed the audience to also offer solutions or make suggestions. Senator Vehle continued with a PowerPoint (**Document 1**), that summarized the information the committee had previously obtained with regard to the miles of roads and surface area of bridges within the state and their current and predicted future condition, revenue sources currently used to fund road and bridge repair along with projected future needs, and dashboard indicators that could be used to monitor progress. He concluded by explaining the

importance of maintaining South Dakota's transportation infrastructure for the economic benefits to the state and for safety issues.

Overview of Alternative Finance Solutions – State and Local

Fred Baatz, Principal Research Analyst, Legislative Research Council, handed out an updated chart, "Highway and Bridge Finance Options" (**Document 2**), showing current and additional revenue that could be raised for surface transportation projects based on suggestions recommended by attendees at the regional Highway Needs and Financing Committee subgroup meetings and the committee members.

The committee recessed at 12:00 p.m. for lunch and reconvened at 1:15 p.m.

Updates and Reports from State Agencies

Trevor Jones, Secretary, South Dakota Department of Public Safety and **Colonel Craig Price, Superintendent, South Dakota Highway Patrol**, shared a PowerPoint "South Dakota Highway Patrol Motor Carrier Services" (**Document 3**), that showed a comparison between South Dakota and neighboring states, the cost of state permits, the overweight cost penalties, and motor carrier inspector salaries. The presentation also included information on the motor carrier turnover rate and the MAP-21 highway bill.

When asked the definition of a trip permit, Colonel Price stated that it was a temporary permit that allowed a vehicle to get from point A to point B. **Captain John Broers, Motor Carrier Division, Department of Public Safety**, further added that it was a temporary commercial permit.

When asked who was receiving the permit fees, Mr. Jones said that the revenue was being deposited into the general fund and the state highway fund. He was unsure of the exact breakdown, but said that he would gather that information for the committee.

In response to a question regarding over-weight fines that are being collected, Mr. Jones said that fine revenue will always be \$170 plus the civil penalty for the per-pound overweight. The fine money goes to the county and it is distributed to the school districts. When asked how fines are collected, Captain Broers stated that South Dakota residents are issued a citation and given a court date, while out-of-state residents are charged at the stop.

In discussing the high turn-over of motor carrier inspectors, it was noted that of the past 15 inspectors that have resigned, 13 left for higher paying jobs. When asked how the motor carrier inspector wages compared with surrounding states, Mr. Jones stated that South Dakota paid less. Mr. Jones then discussed a program that Colonel Price had implemented that allowed for a raise once a motor carrier inspector reached master inspector level which could be attained after five years of service. When asked how much of a raise it would take to prevent turnover, Mr. Jones said that more research would need to be done to find that answer.

Peggy Laurenz, Director, Division of Motor Vehicles, Department of Revenue, answered questions that were brought up at the previous meeting on August 26th and 27th. When asked

about collecting wheel tax on vehicles with more than four wheels, Ms. Laurenz said that the number of wheels is self-reported on the registration and therefore could not be verified. Regarding the amount of revenue that could be raised if agriculture vehicles were licensed as commercial vehicles, Ms. Laurenz said that agricultural vehicles pay 60% of what commercial vehicles pay to register their vehicle. However, the numbers weren't quite as solid since South Dakota allows for seasonal registrations and the number of vehicles registered at any one time fluctuates. On the final topic of the distribution of license plate registration fees, Ms. Laurenz told the committee that 41.75% of the revenue stays within the county and is distributed three ways: the county road and bridge fund, the township special highway fund, and the municipalities. The remaining 58.25% is collected by the state, placed in the local government highway and bridge fund, and is redistributed to the local governments based on the apportionment statute pursuant to section 32-11-35.

Darin Bergquist, Secretary, South Dakota Department of Transportation (SDDOT), addressed the committee by sharing that there had been no change in federal funding since the previous meeting. Essentially, Congress has passed a bill to extend MAP-21 through May 2015, but stated that money isn't guaranteed to be available until May 2015. Currently, the Department of Transportation has obligation authority from October through December 11, 2014. Mr. Bergquist continued by summarizing the four bills currently being discussed that would replace the MAP-21 federal highway bill. President Obama's bill, *The Grow America Program*, is a four-year program which emphasizes distributing more money into transit, rather than highway infrastructure. The House and Senate each have a version of a bill that would extend MAP-21 for six years. One version would factor in inflation, while the other version does not allow for inflation. The final proposal, the *Transportation and Empowerment Act*, phases out the federal highway program and turns all responsibility to the individual states. Mr. Bergquist stated that this last proposal would have devastating implications for South Dakota since we receive back from the federal government \$2.00 for every \$1.00 that we collect.

Review of Requested Legislation

Fred Baatz handed out information listing different drafted legislative bill titles (**Document 4**), Draft A (**Document 5**), "State and Local Highway and Bridge Revenue for draft A" (**Document 6**), and Draft B through Draft S (**Document 7**).

Draft A:--An Act to finance improvements on the public highways and bridges by establishing or increasing the motor vehicle excise tax, taxes on fuel, motor vehicle registration fees, and wheel taxes, to provide for the distribution of certain revenue, and to establish certain state and local planning and reporting requirements concerning the condition of public highways and bridges.

Draft A will:

- Increase the motor vehicle excise tax by 1% from the current 3% to 4% and would raise an additional \$25.3M;
- Add a new tax on dyed special fuel of \$.07/gallon which would bring in \$9.1M;
- Incrementally raise the fuel excise tax on motor fuel and special fuel beginning in 2016 through 2025 which would initially raise \$3.5M/year and end with an additional \$4.5M/year by 2025;
- Incrementally raise the fuel excise tax on ethyl alcohol and methyl alcohol from \$.08/gallon to \$.12/gallon in 2015 and raise the tax an additional \$.02/year through 2020 which would

increase revenue by \$1.5M the first year and would raise an additional \$750,000 each year thereafter;

- Codify the session laws that provide a reduction in the tax imposed on biodiesel or biodiesel blends by \$.02/gallon when production facilities in South Dakota reach a name plate capacity of at least 20M gallons/year and fully produce at least 10M gallons of biodiesel within one year. These provisions will not apply in the quarter after 35M gallons of taxed biodiesel and biodiesel blended fuel are sold;
- Create a wholesale tax of 3% on each gallon of fuel, excluding aviation and jet fuel. The average wholesale price would be set at \$2.50/gallon for 2015 and then adjusted annually by the Department of Revenue with a floor set at \$2.50/gallon;
- Reprogram the petroleum release compensation and tank inspection fee to the highway fund beginning in FY 2021 which would increase revenue into the state highway fund by approximately \$4.5M;
- Increase registration fees by 10%, rounding up to the nearest dollar, except for noncommercial vehicles larger than 27 tons and motorcycles, which would bring in approximately \$8.7M. For those vehicles over 27 tons, they would be charged at the commercial rate increasing roughly \$7M additional revenue and motorcycle registrations would be raised according to engine size with engines 350cc and smaller being raised by \$.50 to \$15, engines 351cc to 1000cc being raised \$1 to \$18, and engines 1001cc and over being raised \$4 to \$21 which would raise approximately \$180,000;
- Add an additional fee of \$80 onto the registration fee of electric vehicles and an additional \$40 onto the registration fee of hybrid vehicles that meet certain criteria which may raise an estimated \$190,000;
- Dispense an additional \$10M/year from registration fees into the local bridge improvement grant fund;
- Allow for counties to collect a wheel tax on vehicles with more than four wheels not to exceed twelve wheels;
- Create a dyed special fuel tax fund within the state treasury;
- Create a special local government bridge fund and a local bridge improvement grant fund that is under the supervision of the Transportation Commission. The Transportation Commission may award grants from the grant fund to any county to construct, reconstruct, or repair bridges as long as the county has established and adopted an annual county highway and bridge improvement plan and has imposed a county wheel tax;
- Require the Transportation Commission to promulgate rules regarding the application process and timelines, the guidelines and the criteria for approval of applications, and distributions of funds;
- Require the Transportation Commission to establish requirements for a county highway and bridge improvement plan that details proposed projects in a county for the next five years; and
- Impose a requirement for the Department of Transportation to establish performance standards designed to measure the overall condition of the highways and bridges on the state highway system, establish ten-year goals for maintenance of these conditions, and report to the House and Senate standing committees the current and projected condition of the state highway system. If goals aren't currently met, the department may not add or build additional miles to the state highway system.

Senator Omdahl shared concern that businesses could face an economic hardship if the federal government also raised their motor fuel taxes.

Draft B--An Act to increase the excise tax on motor vehicles.

Draft B will increase the excise tax on motor vehicles by 1% and will raise an estimated \$25.3M that will be deposited into the state highway fund.

Draft C--An Act to increase the excise tax on motor vehicles, to revise the distribution of the excise tax, to create a grant fund to be used for the construction, reconstruction, and repair of local bridges, and to establish county transportation plan requirements.

Draft C will increase the motor vehicle excise tax by 1.5% from 3% to 4.5%. The highway fund will receive 89% of this revenue and the additional 11% or roughly \$12.5M will be placed in the local bridge improvement grant fund. The requirements and administration of the local bridge improvement grant fund will be the same as set forth in Draft A.

Draft D--An Act to increase certain fuel excise taxes and to provide for a tax on the wholesale price of certain fuel.

Draft D involves:

- Raising the fuel excise tax 2.5% per year over the next ten years beginning in FY2017;
- Incrementally raising the fuel excise tax on ethyl alcohol and methyl alcohol from \$.08/gallon to \$.12/gallon in FY2016 and raising the tax an additional \$.02/year through 2020;
- Codifying the session laws that provide a reduction in the tax imposed on biodiesel or biodiesel blends by \$.02/gallon when production facilities in South Dakota reach a name plate capacity of at least 20M gallons/year and fully produce at least 10M gallons of biodiesel within one year. These provisions will not apply in the quarter after 35M gallons of taxed biodiesel and biodiesel blended fuel are sold; and
- Creating a wholesale tax of 3% on each gallon of fuel, excluding aviation and jet fuel, which the average wholesale price would be set at \$2.50/gallon for 2015 and then adjusted annually by the secretary of the Department of Revenue based on the Oil Price Information Service. The average wholesale price of fuel may not be set lower than \$2.50/gallon.

Draft E--An Act to impose a tax on dyed special fuel, to provide for the distribution of the proceeds, and to establish county transportation plan requirements.

Draft E:

- Adds a new tax on dyed special fuel of \$.07/gallon which would bring in \$9.1M;
- Codifies the session laws that provide a reduction in the tax imposed on biodiesel or biodiesel blends by \$.02/gallon when production facilities in South Dakota reach a name plate capacity of at least 20M gallons/year and fully produce at least 10M gallons of biodiesel within one year. These provisions will be repealed in the quarter after 35M gallons of taxed biodiesel and biodiesel blended fuel are sold; and
- Creates a special local government bridge fund which would distribute 30% or \$2.73M of this revenue to the counties and the remaining 70% or \$6.37M would be placed in the local bridge

improvement grant fund. Both funds could only be utilized by counties which have a county wheel tax and have in place an updated county highway and bridge improvement plan. The Transportation Commission will be responsible for the administration and distribution as set forth in Draft A.

Draft F--An Act to revise the distribution of the revenue from the petroleum release compensation and tank inspection fees.

Draft F reprograms the revenue received from the petroleum release compensation and tank inspection fees and places it in the state highway fund beginning in FY2021. Estimates show that \$4.5M would be added to the highway fund.

Draft G--An Act to eliminate certain distributions from the motor fuel tax fund.

Draft G would eliminate revenue going into the snowmobile trails fund and the motorboat fund within the Department of Parks and Recreation. This would allow approximately \$2M to remain in the highway fund.

Draft H--An Act to increase certain registration fees for the use of motor vehicles on the public highways and bridges, to revise the distribution of certain revenue, and to provide funding for the construction and repair of local bridges.

Draft H allows for a 10% increase in registration fees, rounding up to the nearest dollar, for noncommercial vehicles weighing up to 27 tons. For noncommercial vehicles weighing over 27 tons, registration fees will be charged at the commercial rate. Motorcycles registrations will be raised according to engine size with engines 350cc and smaller being raised by \$.50 to \$15, engines 351cc to 1000cc being raised \$1 to \$18, and engines 1001cc and over being raised \$4 to \$21. Revenue from the registration fees in the amount of \$10M will be deposited into the local bridge improvement grant fund. The Transportation Commission will be responsible for the oversight and distribution of funds as set forth in Draft A.

Draft I--An Act to require certain motor vehicles to pay an additional registration fee.

Draft I may raise an additional \$190,000 by increasing registration fees on electric vehicles by \$80 and increasing registration fees on hybrid vehicles by \$40. Definitions of these vehicles are included in the draft.

Draft J--An Act to make the county wheel tax mandatory and to revise certain provisions concerning the wheel tax.

Draft J mandates a wheel tax on all motor vehicles up to twelve wheels with the option of allowing a county to opt out or decrease the rate of tax imposed on each wheel.

Draft K--An Act to require counties to impose a property tax for the purpose of constructing, reconstructing, and repairing local government bridges and culverts.

Draft K would allow the county commissioners across the state to authorize a property tax levy of \$.20/\$1000 of taxable valuation. Half the revenue collected, approximately \$7.6M, would be deposited in the county bridge and culvert fund and the other half, approximately \$7.6M, would go to the Department of Transportation to be deposited in the local bridge improvement grant fund. The requirements and administration of the fund will be the same as set forth in Draft A.

Draft L--An Act to exempt certain township property tax levies from the property tax limitation requirements.

Draft L shows two different options. The first option exempts townships that levy less than \$.50/\$1000 taxable valuation from the property tax limitation program requirements and the second option totally exempts all townships from the property tax limitation program requirements.

Draft M--An Act to establish a road capital improvement fund and to allow counties and townships to levy a capital improvement property tax for roads, bridges, and culverts.

Draft M allows:

- County commissioners to authorize a capital outlay levy of \$1.00/\$1000 taxable valuation to be deposited into a road capital improvement fund which would raise approximately \$76M if all counties participated at the maximum levy; and
- Township boards to authorize a property tax levy not to exceed \$.50/\$1000 taxable valuation to be deposited in a road capital improvement fund. If the full \$.50 is levied, it would raise \$13.3M.

Draft N--An Act to revise certain provisions concerning the county tax levy for highways and bridges and to permit counties to levy the existing highway and bridge reserve fund tax to make necessary road and bridge improvements.

Draft N amends existing statute by removing some of the restrictions placed on counties when levying taxes for road and bridge repair. It also states that the property tax limitation does not apply to this tax levy. By amending statute, this bill would only require a majority vote.

Draft O--An Act to revise certain provisions concerning property tax limitations for counties.

Draft O adds a property tax limitation exception for counties and rather than the limitation being 3% or less of the index factor, it will be 3% or greater.

Draft P-- An Act to increase the gross receipts tax imposed on certain visitor-related businesses by one-half percent, to create a fund to be used for the construction, reconstruction, and repair of local bridges, and to establish county transportation plan requirements.

Draft P increases the current tourism tax 0.5% from 1.5% to 2% and allocates the additional revenue to the local bridge improvement grant fund. This increase will raise approximately \$3M.

Draft Q--An Act to create certain funds to be used for the construction, reconstruction, and repair of local bridges and to establish county transportation plan requirements.

Draft Q creates the special local government bridge fund and the local bridge improvement grant fund with the same requirements and administration of the fund as set forth in Draft A.

Draft R--An Act to require a county to have a highway and bridge improvement plan.

Draft R requires the county to have an annual five-year highway and bridge improvement plan that will be established by the Transportation Commission.

Draft S--An Act to require the Department of Transportation to make an annual report to the Legislature regarding the conditions of state highways and bridges.

Draft S imposes a requirement for the Department of Transportation to establish performance standards designed to measure the overall condition of the highways and bridges on the state highway system, establish ten-year goals for maintenance of these conditions, and report to the House and Senate standing Transportation Committees, before the fourth Tuesday in January of each year, the current and projected condition of the state highway system. If goals aren't currently met, the department may not add or build additional miles to the state highway system.

Public Testimony

Senator Vehle encouraged the members of the audience to come forward and work with the committee to come up with solutions.

Myron Rau, President, South Dakota Automobile Dealers and South Dakota Truckers Association, stated that he would be interested in any legislation that included a variety of people and not an individual group. For this reason, he said that he preferred draft A. Mr. Rau also mentioned that Harley Davidson would soon be revealing an electric motorcycle, which would require additional provisions to be enacted to license electric motorcycles.

Yvonne Taylor, South Dakota Municipal League, passed out information, "City Streets Are More Than Pavement" (**Document 8**), that showed the additional costs to municipalities with regard to road repair. She stated that she would like to see more funding options available to municipalities.

Matthew McCaulley, South Dakota Association for Corn Growers, distributed "SD Corn Growers Association, Road and Bridge Funding Position Statement, November 2014" (**Document 9**), which showed what his organization supports, opposes, and the principles and requirements he would like to see within proposed legislation. Mr. McCaulley said that the South Dakota Association of Corn Growers need good roads and are willing to help pay for them. He mentioned that they would like to see the townships receive additional funding. He also stated that they felt the fairest way to generate additional revenue was through an increase in the motor fuel taxes. His organization is against the tax on dyed diesel fuel and any new taxes on goods and services. While he supports draft A, Mr. McCaulley said that he does oppose a couple of items in the bill. He concluded by saying that he would like to see the actual dollar amount needed so that their policy can be based off of that number.

Senator Vehle stated that he wanted to address the bridge fund need. According to the information shown earlier, \$250M would be needed to repair or replace the bridges that are currently deficient or obsolete. Understanding that this amount is more than what could be raised, Senator Vehle said that he would like to come up with 10% of that amount, or \$25M for bridges and then use the rest of the money to fund the roads.

Harry Christianson, South Dakota Ethanol Producers Association, stated that he supports a gasoline tax increase and supports an ethanol and methanol tax increase as long as they are proportionate and increase at the same rate as other fuels. Mr. Christianson felt that there should continue to be a tax differential between the fuel types.

Michele Brich, South Dakota Hotel and Lodging Association, discussed draft P by saying that her organization is against increasing the tourism tax by an additional 0.5%, which would raise the rate from 1.5% to 2%, with the revenue being allocated specifically for roads and bridge repair because of the disconnect between the tax payers and how the funds were being used.

Michael Held, South Dakota Farm Bureau, stated that his organization understands the need for additional funding and supports an increase in all license fees, an increase in the gasoline and diesel tax, and an increase in the excise tax. Mr. Held stated that he believes the approach that has been used in the past has worked well and his fear is that if you add new items to help fund the deficit, there will be increased baggage that will hurt the efforts of getting new legislation passed. He also stated that his organization was against draft E which taxes dyed diesel fuel since the majority of that fuel is used in the fields. He finished by saying that he was in favor of a cents per gallon tax increase on fuel rather than a wholesale tax.

Shawn Lyons, South Dakota Retailers Association, began by telling the committee that he is interested in working with the committee on this issue, but has not been given much direction currently from the board as to what their position will be, but he did want to express concern regarding increasing the tourism tax after having just established the current rate of 1.5% two years ago.

Deb Mortenson, Roads are Vital Coalition, wanted to let the committee know that this coalition is up to 25 members having added the South Dakota Cattlemen's Association and the South Dakota Engineering Society. Television advertisements will run during the month of December and digital ads will be on-going. This coalition will be conducting two legislative briefings in conjunction with the Sioux Falls Area Chamber of Commerce and the Rapid City Area Chamber of Commerce and the Highway Users Conference in the month of December.

Deb Mortenson, South Dakota Association of General Contractors, stated that her membership is supportive of a comprehensive approach as found in Draft A. Although everything listed in this draft will increase business costs, she said that they do feel it will be a good return on their investment. On a final note, with regard to dyed diesel, she wanted to tell the committee that contractors are already paying taxes on dyed diesel fuel in the form of sales tax and motor fuel tax. When dyed diesel fuel is used in right-of-way construction, they need to calculate how much diesel fuel is used and pay a motor fuel tax of \$.22/gallon and then they get a rebate on the sales tax that had been paid. They are a proponent of the dyed

diesel fuel tax that has been proposed because the revenue will go for road construction rather than the general fund, which is where it goes currently.

Matt Sibley, South Dakota Farmers Union, told the committee that they will be holding their convention later this month where they will finalize their position on this issue. He added that their position aligns similarly to comments made by Mike Held with the Farm Bureau concerning what they will and will not support. With regard to funding infrastructure, Mr. Sibley said that he felt the first priority was the safety factor, the second priority would be the impact on commerce and being able to generate revenue, and the third priority would be tourism and recreational uses. He mentioned that his organization was against the dyed diesel fuel tax and the increase tax on ethanol. While his organization wants to be part of the solution, he doesn't want them to be singled out. He was supportive of the gasoline and diesel fuel tax increase and the registration fee increase.

Brenda Forman, South Dakota Association of Cooperatives, appreciated the proposals being sent out. She stated that Draft A was the most fair and thought it was a comprehensive approach. While not necessarily agreeing with everything that was proposed, viewing it as a living document, understanding that changes would be made, she felt this was a great effort. She stated that they understood the need to find funding and wanted to be part of the solution. One concern Ms. Forman shared was the complexity of Draft A and she asked whether it would be beneficial to separate it into separate pieces of legislation.

Senator White told the committee that he would like this issue (Draft A) to be viewed and considered as one issue that is for the general welfare of the state.

The committee went into recess at 4:55 p.m. and reconvened at 8:15 a.m. Friday, November 7, 2014. All members were present.

Continuation of Public Testimony

Loren Pankratz, South Dakota Association of County Commissioners, introduced himself to the committee and said that he appreciated the efforts that have been made. His association was in favor of Draft A, Draft M, and Draft N for the benefits these drafts provide at the local level.

Ken McFarland, Commission Administrative Officer, Minnehaha County, began by explaining that currently they need an additional \$4M to maintain the roads and bridges in his county. He liked the comprehensive approach of Draft A. He agreed with the need for counties to come up with a county highway and bridge improvement plan. One thing he wanted to caution the members of the committee about was the need to raise an additional \$17.5M in new revenue in order to make sure the \$10M is there to fund the special local government bridge fund and does not subtract from the current revenue stream. He agreed that the need is there and Minnehaha County wants to be part of the solution.

Dick Howard, South Dakota Association of Towns and Townships, handed out his comments on the proposed Draft Legislation (**Document 10**), which shared his thoughts on the different legislative drafts and another packet of information which shared articles dealing with agriculture and transportation infrastructure (**Document 11**). He began by sharing his

involvement stating that he has been involved with transportation funding for thirty years and, with the present condition of the roads and bridges, especially on the local level, mentioned that the current system of funding transportation infrastructure isn't working. He told the committee that he fully supports the comprehensive approach found in Draft A, but agrees with Ms. Forman that it may be easier to pass if it was in two separate pieces of legislation. Mr. Howard said that he was in support of Drafts B, C (with minor language changes), E (with an amendment to change some of the distribution percentages), H, J (with added sections to distribute 15% of the newly collected revenue to the towns and townships and 5% to the municipalities), M, N (if modified to be outside of the tax freeze), O, P, and R. He did not support Draft K because of the lack of local control and Draft L he did not think that there would be enough support. In conclusion, Mr. Howard wanted the committee to know that if roads were vacated, the right of way would revert to the landowner and the government would lose the land. In the past, Game, Fish, and Parks have brought lawsuits against townships for vacating roads. He felt that a better solution may be to expand the definition of "no maintenance roads" where public access wouldn't be lost, but the governing entity would not be held liable for maintenance.

When asked where the opposition was coming from regarding road closures, Mr. Howard said that it was often coming from sportsmen.

Mike Held, South Dakota Farm Bureau, shared that his organization would be supportive of eliminating the ethanol tax breaks and would also be in favor of shortening the time frame for adding fees to blended ethanol.

Matt McCaulley, South Dakota Alliance of Automobile Manufacturers, stated that he wanted to address Draft I, which was also located within Draft A. With the definition of a hybrid vehicle given within the bill, Mr. McCaulley stated that currently there were no vehicles on the market today that would qualify due to the miles per gallon requirement proposed. He also mentioned that electric cars should be looked at with regard to the technology available, but currently, with electric cars not doing nearly as well in South Dakota with the cold temperatures, he thought it would be best to wait and see what new technologies are developed in the future before adding additional fees.

When asked if there were any states that charge an extra fee on hybrid or electric vehicles, Mr. McCaulley said that there were not any additional fees on hybrid vehicles, but he was unsure on electric vehicles.

Senator Vehle stated that he didn't want to thwart technological advances, but that South Dakota has a problem with maintaining the roads and bridges and all vehicles that drive on the roadways need to pay for their usage. When asked what the car industry's answer was to getting these hybrid and electric vehicles to help share in the cost of maintaining the highways, Mr. McCaulley stated that the manufacturers take no position on the proposed registration fee increase, the proposed excise tax increase, or the license fee increase that applies to all vehicles equally, but they didn't want one certain technology to be singled out and forced to pay fees that others weren't subjected to.

Gregg Vavra, Local Transportation Assistance Program (LTAP), began by telling the committee that he didn't feel the system of funding roads and bridges was currently sufficient.

His main concern was the amount of damage that trucks are causing and stated that one legally loaded semi-trailer truck did as much damage to the roads as 2,380 passenger cars. He went on to add that trucks that were allowed to be 10% over that limit out of the field increase damage by 46%. Mr. Vavra said that he would like the committee to look at options that would decrease the damage going forward to help save money on repairs needed in the future. With regard to closing roads, he wanted the committee to realize that one road closure could account for a 30 mile detour. He concluded by saying that he would like to see a formula that would include municipalities. When asked how much revenue was needed over the next ten years to get the bridges in good shape, Mr. Vavra said bridges would need \$34M/year for the next ten years.

The committee recessed at 9:55 a.m. and reconvened at 10:22.

Committee Recommendations

Senator Vehle began by stating that he would like to discuss Draft A and wanted the committee to realize that this was still a fluid draft and would need additional work even if it was passed out of committee.

A MOTION WAS MADE BY REPRESENTATIVE PARSLEY, SECONDED BY REPRESENTATIVE PETERSON, THAT SECTION 5, PAGE 2, LINE 14 OF DRAFT A BE REVISED TO SHOW A RATE OF \$.10 FOR ETHANOL WITH AN ANNUAL INCREASE OF \$.02 UNTIL THE TAX REACHES \$.22 AFTER JULY 1, 2021. The motion prevailed on a voice vote.

Regarding the additional tax of 3% on the wholesale price of fuel, found in sections 8 through 13, **Representative Cammack** stated that he was against the idea of adding a new tax. **Representative Anderson** also mentioned that he was not in favor of adding a new taxing mechanism and would prefer raising the gas tax since it was already in place and would not create a new tax methodology. **Representative Werner** cautioned the committee that by deleting these sections, they would be losing half of the funds being raised. **Representative Duvall** agreed with Representative Werner and asked how they could augment funding if this tax was removed from the draft. Senator Vehle reminded the committee that the \$50M collected through these sections would be going toward funding the \$143M needed for the state highway system. He also told the committee that having this fee tied to the price of oil could greatly benefit the state in the future since road maintenance is so tightly connected to the cost of oil.

A MOTION WAS MADE BY REPRESENTATIVE CAMMACK, SECONDED BY REPRESENTATIVE ANDERSON TO DELETE SECTION 8 OF DRAFT A. The motion failed on a voice vote.

Regarding registration fees addressed in Section 15, Representative Werner handed out information (**Document 12**), showing examples of the amount of revenue that could be generated over ten years if registration fees increased 2.5% annually, increased 10% and remained there, and increased ten percent and then raised them an additional 2.5% each year. Representative Werner also shared an example of raising the registration fee by 10% in

2015 and then increasing the fee to every three years by roughly \$5. Senator White said that he liked the idea of indexing this fee into the future.

A MOTION WAS MADE BY REPRESENTATIVE WERNER, SECONDED BY SENATOR WHITE TO INCREASE REGISTRATION FEES LISTED IN SECTION 15 OF DRAFT A BY 10% IN 2015 AND THEN FACTOR WITH AN INCREASE BASED ON AN ESTIMATED INDEX AMOUNT, ROUNDING TO THE NEAREST DOLLAR, BEGINNING IN 2019 AND EVERY THREE YEARS UNTIL 2025. The motion failed on a roll call vote with 6 voting YEA, 9 voting NAY. Those voting YEA: Schaefer, Verchio, Welke, Werner, White, and Vehle. Those voting NAY: Anderson, Cammack, Ewing, Hunhoff, Omdahl, Parsley, Peterson, Tidemann, and Duvall.

A MOTION WAS MADE BY REPRESENTATIVE WERNER, SECONDED BY ANDERSON TO USE THE LANGUAGE IN DRAFT J TO MANDATE A WHEEL TAX OF \$4/WHEEL FOR A MAXIMUM OF \$48. A COUNTY COULD OPT-OUT, BUT MAY NOT BE ABLE TO ACCESS THE LOCAL BRIDGE IMPROVEMENT GRANT FUND.

A SUBSTITUTE MOTION WAS MADE BY REPRESENTATIVE PARSLEY, AND SECONDED THAT THE COUNTIES MAY GO TO A MAXIMUM WHEEL TAX OF \$48, BUT IF THEY CHOOSE NOT TO, THEY WILL NOT BE ELIGIBLE TO ACCESS FUNDS FROM THE LOCAL BRIDGE IMPROVEMENT GRANT FUND. This motion was withdrawn.

THE ORIGINAL MOTION MADE BY REPRESENTATIVE WERNER, SECONDED BY ANDERSON TO USE THE LANGUAGE IN DRAFT J TO MANDATE A WHEEL TAX OF \$4/WHEEL FOR A MAXIMUM OF \$48. A COUNTY COULD OPT-OUT, BUT MAY NOT BE ABLE TO ACCESS THE LOCAL BRIDGE IMPROVEMENT GRANT FUND, failed on a roll call vote with 5 voting YEA, 10 voting NAY. Those voting YEA: Anderson, Tidemann, Welke, Werner, and White. Those voting NAY: Cammack, Ewing, Hunhoff, Omdahl, Parsley, Peterson, Schaefer, Verchio, Duvall, and Vehle.

Regarding sections 26 through 29, Representative Duvall and Senator Omdahl both recognized that there were agriculture groups that were opposed to taxing dyed diesel fuel, but felt that the tax was fair due to the extra wear and tear to the roads caused by agricultural vehicles and wanted to keep this revenue source in the draft. Representative Peterson stated that he felt that too much of the burden was being placed on the farmers and he would not support these sections. Representative Cammack stated that he felt the agriculture community would not support this draft if this tax was included. Senator Omdahl and Representative Werner asked the committee to leave these sections in the draft and the details could be reconsidered at a later date. Senator White said that he spoke to many county commissioners and farmers who stated the need for better roads so that they could get their produce to market and their willingness to do whatever was necessary to have better roads. Senator Vehle concluded by stating that the reason for the poor conditions of the county and township roads and bridges was from underfunding and if these sections are removed, it would eliminate a significant amount of revenue going to the local bridge improvement grant fund.

A MOTION WAS MADE BY REPRESENTATIVE CAMMACK, SECONDED BY REPRESENTATIVE PETERSON TO DELETE SECTIONS 26 TO 29 OF DRAFT A. The

motion failed on a roll call vote with 7 voting YEA and 8 voting NAY. Those voting YEA: Anderson, Cammack, Ewing, Parsley, Peterson, Tidemann, and Welke. Those voting NAY: Hunhoff, Omdahl, Schaefer, Verchio, Werner, White, Duvall, and Vehle.

A MOTION WAS MADE BY SENATOR WELKE, SECONDED BY SENATOR TIDEMANN, TO AMEND DRAFT A, SECTION 3, PAGE 2, LINE 18, DELETE \$.07 AND INSERT \$.02.

A SUBSTITUTE MOTION WAS MADE BY REPRESENTATIVE VERCHIO, SECONDED BY SENATOR OMDAHL, TO AMEND DRAFT A, SECTION 3, PAGE 2, LINE 18, DELETE \$.07 AND INSERT \$.04.

Representative Duvall asked the committee to resist both motions at this time until discussions could be had with the agriculture community as to what number they would be willing to work with.

Representative Verchio withdrew his substitute motion.

THE ORIGINAL MOTION MADE BY SENATOR WELKE, SECONDED BY SENATOR TIDEMANN, TO AMEND DRAFT A, SECTION 3, PAGE 2, LINE 18, DELETE \$.07 AND INSERT \$.02., failed on a roll call vote with 7 voting YEA and 8 voting NAY. Those voting YEA: Anderson, Cammack, Ewing, Parsley, Peterson, Tidemann, and Welke. Those voting NAY: Hunhoff, Omdahl, Schaefer, Verchio, Werner, White, Duvall, and Vehle.

Representative Werner wanted to make sure the committee understood that it stated in section 31 of Draft A that if a county did not impose a wheel tax pursuant to statute 32-5A-1, they would not have access to the local bridge improvement grant fund.

In response to a question regarding the total revenue needed to fund the transportation infrastructure, Senator Vehle stated that the State's need was listed at \$143M, the county need was \$84M and the townships need was \$30M. It was also calculated that the bridge need was an additional \$24M. Added together, that total is roughly a quarter of a billion dollars. Draft A would increase revenue by approximately \$100M.

Representative Duvall thanked the committee and the Legislative Research Council staff for their hard work. She stated that they were tasked with providing revenue to address the needs, which is never easy, for road and bridge repair. She understands that Draft A is a work in progress, but felt like it was a great start. With the governor announcing that infrastructure would be a big issue for this term, she was hopeful that the Executive Board would accept the draft for introduction.

Many committee members stressed the importance of viewing this draft as a work in progress and were willing to support it with that understanding.

A MOTION WAS MADE BY REPRESENTATIVE DUVALL, SECONDED BY SENATOR OMDAHL TO ADOPT DRAFT A AS AMENDED. The motion passed on a roll call vote with 12 voting YEA and 3 voting NAY. Those voting YEA: Anderson, Hunhoff, Omdahl, Parsley, Schaefer, Tidemann, Verchio, Welke, Werner, White, Duvall, and Vehle. Those voting NAY: Cammack, Ewing, and Peterson.

Senator Vehle continued by asking the committee if anyone would like to make additional motions to support individual Drafts B through Draft S in addition to Draft A.

REPRESENTATIVE VERCHIO MADE A MOTION TO ADOPT DRAFT G. The motion failed for lack of a second.

No other motions were made to adopt Drafts B through Draft S.

Senator Vehle again thanked the committee, the staff, the audience, and all those that testified and did the research for their hard work and dedication to the task that was set before them. He concluded by say, "If you got it, a road brought it. Not much is parachuted in."

Adjournment

A MOTION WAS MADE BY REPRESENTATIVE SCHAEFER, SECONDED BY REPRESENTATIVE PARSLEY, THAT THE HIGHWAY NEEDS AND FUNDING STUDY COMMITTEE ADJOURN. The motion prevailed unanimously on a voice vote.

The committee adjourned at 12:50 p.m.

All committee agendas and minutes are available on the LRC website: <http://legis.sd.gov/>. You may subscribe to electronic delivery of agendas and minutes at E-Subscribe on the LRC website.